



General Assembly

January Session, 2007

Raised Bill No. 7040

LCO No. 3699

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Referred to Committee on Planning and Development

Introduced by:
(PD)

***AN ACT CONCERNING RESUBDIVISIONS AND CLARIFYING THE
CONSIDERATION BY PLANNING AND ZONING COMMISSIONS OF
INLAND WETLANDS DECISIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 8-26 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 All plans for subdivisions and resubdivisions, including
4 subdivisions and resubdivisions in existence but which were not
5 submitted to the commission for required approval, whether or not
6 shown on an existing map or plan or whether or not conveyances have
7 been made of any of the property included in such subdivisions or
8 resubdivisions, shall be submitted to the commission with an
9 application in the form to be prescribed by it. The commission shall
10 have the authority to determine whether the existing division of any
11 land constitutes a subdivision or resubdivision under the provisions of
12 this chapter, provided nothing in this section shall be deemed to
13 authorize the commission to approve any such subdivision or
14 resubdivision which conflicts with applicable zoning regulations. Such
15 regulations may contain provisions whereby the commission may

16 waive certain requirements under the regulations by a three-quarters
17 vote of all the members of the commission in cases where conditions
18 exist which affect the subject land and are not generally applicable to
19 other land in the area, provided that the regulations shall specify the
20 conditions under which a waiver may be considered and shall provide
21 that no waiver shall be granted that would have a significant adverse
22 effect on adjacent property or on public health and safety. The
23 commission shall state upon its records the reasons for which a waiver
24 is granted in each case. The commission may establish a schedule of
25 fees and charge such fees. The amount of the fees shall be sufficient to
26 cover the costs of processing subdivision applications, including, but
27 not limited to, the cost of registered or certified mailings and the
28 publication of notices, and the costs of inspecting subdivision
29 improvements. Any schedule of fees established under this section
30 shall be superseded by fees established by ordinance under section 8-
31 1c. The commission may hold a public hearing regarding any
32 resubdivision or regarding any subdivision proposal if such
33 subdivision proposal would create more than twenty-five lots and, in
34 its judgment, the specific circumstances require such action. [No plan
35 of resubdivision shall be acted upon by the commission without a
36 public hearing.] Such public hearing shall be held in accordance with
37 the provisions of section 8-7d. The commission shall approve, modify
38 and approve, or disapprove any subdivision or resubdivision
39 application or maps and plans submitted therewith, including existing
40 subdivisions or resubdivisions made in violation of this section, within
41 the period of time permitted under section 8-26d. Notice of the
42 decision of the commission shall be published in a newspaper having a
43 substantial circulation in the municipality and addressed by certified
44 mail to any person applying to the commission under this section, by
45 its secretary or clerk, under his signature in any written, printed,
46 typewritten or stamped form, within fifteen days after such decision
47 has been rendered. In any case in which such notice is not published
48 within such fifteen-day period, the person who made such application
49 may provide for the publication of such notice within ten days

50 thereafter. Such notice shall be a simple statement that such
51 application was approved, modified and approved or disapproved,
52 together with the date of such action. The failure of the commission to
53 act thereon shall be considered as an approval, and a certificate to that
54 effect shall be issued by the commission on demand. The grounds for
55 its action shall be stated in the records of the commission. No planning
56 commission shall be required to consider an application for approval
57 of a subdivision plan while another application for subdivision of the
58 same or substantially the same parcel is pending before the
59 commission. For the purposes of this section, an application is not
60 "pending before the commission" if the commission has rendered a
61 decision with respect to such application and such decision has been
62 appealed to the Superior Court. If an application involves land
63 regulated as an inland wetland or watercourse under the provisions of
64 chapter 440, the applicant shall submit an application to the agency
65 responsible for administration of the inland wetlands regulations no
66 later than the day the application is filed for the subdivision or
67 resubdivision. The commission shall, within the period of time
68 established in section 8-7d, accept the filing of and shall process,
69 pursuant to section 8-7d, any subdivision or resubdivision application
70 involving land regulated as an inland wetland or watercourse under
71 chapter 440. The commission shall not render a decision until the
72 inland wetlands agency has [submitted a report with] rendered its
73 final decision [to such commission] on such application under chapter
74 440, provided the inland wetlands agency makes its final decision
75 within the time frame established in such chapter. In making its
76 decision the commission (1) shall give due consideration to the [report]
77 final decision of the inland wetlands agency, if such final decision is
78 made within the time frame established in chapter 440, and (2) shall
79 not consider the factors for consideration under section 22a-41
80 regardless of consideration or lack of consideration by the inland
81 wetlands agency. If the commission adopts conditions or requirements
82 for the subdivision proposal that conflict with conditions or
83 requirements on the proposed activity adopted by the inland wetlands

84 agency under chapter 440, and such conflicting conditions or
85 requirements cannot be reasonably reconciled by the applicant, the
86 applicant may request the commission and the inland wetland agency
87 to convene a special joint meeting for the sole purpose of resolving
88 such conflicting conditions or requirements. Such joint meeting shall
89 be held not more than thirty-five days after submission of such
90 request. A majority vote of the members present at such meeting is
91 necessary for any decision on resolution of the conflicting conditions
92 or requirements. The joint decision shall become part of the final
93 decision of the commission and the inland wetland agency. In making
94 a decision on an application, the commission shall consider
95 information submitted by the applicant under subsection (b) of section
96 8-25 concerning passive solar energy techniques. The provisions of this
97 section shall apply to any municipality which exercises planning
98 power pursuant to any special act.

99 Sec. 2. Subsection (g) of section 8-3 of the general statutes is repealed
100 and the following is substituted in lieu thereof (*Effective October 1,*
101 *2007*):

102 (g) The zoning regulations may require that a site plan be filed with
103 the commission or other municipal agency or official to aid in
104 determining the conformity of a proposed building, use or structure
105 with specific provisions of such regulations. If a site plan application
106 involves an activity regulated pursuant to sections 22a-36 to 22a-45,
107 inclusive, the applicant shall submit an application for a permit to the
108 agency responsible for administration of the inland wetlands
109 regulations not later than the day such application is filed with the
110 zoning commission. [The decision of the zoning commission shall not
111 be rendered] The commission shall, within the period of time
112 established in section 8-7d, accept the filing of and shall process,
113 pursuant to section 8-7d, any site plan application involving land
114 regulated as an inland wetland or watercourse under chapter 440. The
115 commission shall not render a decision on the site plan application
116 until the inland wetlands agency has [submitted a report with]

117 rendered its final decision on such application under chapter 440,
118 provided the inland wetlands agency makes its final decision within
119 the time frame established in said chapter. In making its decision the
120 zoning commission shall (1) give due consideration to the [report] final
121 decision of the inland wetlands agency, if such final decision is made
122 within the time frame established in chapter 440, and (2) shall not
123 consider the factors for consideration under section 22a-41 regardless
124 of consideration or lack of consideration by the inland wetlands
125 agency. If the commission adopts conditions or requirements for the
126 subdivision proposal that conflict with conditions or requirements on
127 the proposed activity adopted by the inland wetlands agency under
128 chapter 440, and such conflicting conditions or requirements cannot be
129 reasonably reconciled by the applicant, the applicant may request the
130 commission and the inland wetland agency to convene a special joint
131 meeting for the sole purpose of resolving such conflicting conditions or
132 requirements. Such joint meeting shall be held not more than thirty-
133 five days after submission of such request. A majority vote of the
134 members present at such meeting is necessary for any decision on
135 resolution of the conflicting conditions or requirements. The joint
136 decision shall become part of the final decision of the commission and
137 the inland wetland agency. A site plan may be modified or denied only
138 if it fails to comply with requirements already set forth in the zoning or
139 inland wetlands regulations. Approval of a site plan shall be presumed
140 unless a decision to deny or modify it is rendered within the period
141 specified in section 8-7d. A certificate of approval of any plan for
142 which the period for approval has expired and on which no action has
143 been taken shall be sent to the applicant within fifteen days of the date
144 on which the period for approval has expired. A decision to deny or
145 modify a site plan shall set forth the reasons for such denial or
146 modification. A copy of any decision shall be sent by certified mail to
147 the person who submitted such plan within fifteen days after such
148 decision is rendered. The zoning commission may, as a condition of
149 approval of any modified site plan, require a bond in an amount and
150 with surety and conditions satisfactory to it, securing that any

151 modifications of such site plan are made or may grant an extension of
152 the time to complete work in connection with such modified site plan.
153 The commission may condition the approval of such extension on a
154 determination of the adequacy of the amount of the bond or other
155 surety furnished under this section. The commission shall publish
156 notice of the approval or denial of site plans in a newspaper having a
157 general circulation in the municipality. In any case in which such
158 notice is not published within the fifteen-day period after a decision
159 has been rendered, the person who submitted such plan may provide
160 for the publication of such notice within ten days thereafter. The
161 provisions of this subsection shall apply to all zoning commissions or
162 other final zoning authority of each municipality whether or not such
163 municipality has adopted the provisions of this chapter or the charter
164 of such municipality or special act establishing zoning in the
165 municipality contains similar provisions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2007	8-26
Sec. 2	October 1, 2007	8-3(g)

Statement of Purpose:

To make public hearings on resubdivision discretionary and to clarify consideration of planning and zoning commissions of decisions of inland wetlands agencies.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]